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March 31, 2020

Honorable Paul A. Engelmayer  
United States District Court Judge  
Southern District of New York  
40 Foley Square  
New York, New York 10007

**Re: United States v. Daniel Hernandez**  
**Docket No.: S5 18-CR-0834-004 (PAE)**

Dear Judge Engelmayer:

As you recall, I represent Daniel Hernandez with regard to the above-referenced case. On March 22, 2020, I filed a letter with this Court requesting a modification of Mr. Hernandez's sentence that would immediately release him from jail in order to avoid the significant risk of the COVID-19 coronavirus outbreak which is deadly to individuals with pre-existing conditions, such as Mr. Hernandez who suffers from severe asthma and was recently hospitalized for bronchitis in late October and November 2019. In an Order dated, March 25, 2020, your Honor ruled that you lacked statutory authority to grant such a request, in part, because Mr. Hernandez had not sought an administrative review of his request for compassionate release with the Bureau of Prisons ("BOP") under 18 U.S.C. § 3582(c). However, in denying Mr. Hernandez's request, your Honor urged BOP to strongly consider granting such a request by Mr. Hernandez for compassionate release given that the deadly threat of COVID-19 to Mr. Hernandez was completely unforeseen at the time of sentencing.

On March 26, 2020, in accordance with 18 U.S.C. § 3582(c) and 28 C.F.R. § 571.61, I submitted an administrative request for compassionate release on behalf of Mr. Hernandez to BOP, citing the current extraordinary and compelling circumstances of COVID-19 that were unforeseen at the time of Mr. Hernandez's sentence which now necessitate his immediate release from prison. A copy of said administrative request for compassionate release with BOP is attached hereto. BOP has now denied Mr. Hernandez's administrative request for compassionate release. As per the attached e-mail dated March 31, 2020, Section Chief Shannon Robbins with BOP's Designation and Sentence Computation Center, Mr. Hernandez's administrative request to BOP for compassionate release was denied because as a non-BOP inmate, BOP is refusing to grant Mr. Hernandez compassionate release.

According to 18 U.S.C. § 3582(c), a court may, upon a finding of extraordinary and compelling circumstances, reduce the prison term of a defendant's sentence if BOP has denied compassionate release after the defendant has exhausted all administrative remedies with BOP. Accordingly, in this case, your Honor now has the statutory authority to modify Mr. Hernandez's sentence so as to immediately release him from prison. Mr. Hernandez submitted his administrative request for compassion release to BOP and BOP has made clear that as a non-BOP inmate, BOP will never grant Mr. Hernandez compassionate release. Therefore, in accordance with 18 U.S.C. § 3582(c), please issue an order modifying Mr. Hernandez's sentence so as to immediately release him from prison and allowing him to serve the remainder of his sentence under home confinement.

It is imperative that Mr. Hernandez be released from prison as soon as possible. The COVID-19 outbreak is absolutely devastating our nation, and in particular, the New York City region. The virus is highly contagious and deadly to individuals with pre-existing conditions like asthma and bronchitis. There are now 188,327 confirmed cases of COVID-19 in the United States. With 3,878 deaths in the country, more than 1,500 in the New York City region, and close to 1,000 killed by the virus in New York City alone. While reporting 785 deaths in the country today alone, medical officials are predicting that the next two weeks will likely be extremely deadly. Doctor Anthony Fauci even advised Americans today to expect a death total between 100,000 and 240,000. With these unthinkable facts, government officials are taking drastic measures to protect citizens and to save lives.

New York City Corrections and the New York State Courts have now released hundreds of inmates who are either at high risk from COVID-19, serving short prison sentences, or close to their projected release dates. This virus is extremely dangerous in the sheltered environment of jails. Not only New York City jails have been struck by this virus; federal facilities like MDC Brooklyn have also experienced inmates testing positive test for COVID-19. Even Mr. Hernandez's current facility has five inmates quarantined, with three inmates awaiting test results. In response to the dangers of this virus spreading through BOP facilities, on Thursday, March 26, 2020, Attorney General William Barr ordered BOP to release sick inmates instead of keeping them in overcrowded prisons where COVID-19 is already spreading. Once again, as a non-BOP inmate in a non-BOP facility, Mr. Hernandez would not be eligible under Barr's directive.

Accordingly, in order to protect Mr. Hernandez's health and possible risk to his life, given his serious medical condition and the grave status of COVID-19 in our area, please find extraordinary and compelling circumstances under 18 U.S.C. § 3582(c), and grant Mr. Hernandez compassionate release and modify his sentence to arrange for his immediate release from prison. Thank you for your consideration herein, and please contact me if you have any questions or need any additional information.

Very Truly Yours,

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BY:                     /s/                      
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